IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WA.No. 1170 of 2007(A)

{IN W.P.(C)NO.26226/2004 OF THIS COURT}
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APPELLANTS/PETITIONERS:
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1. ANSARI, S/O. ARIFA BEEVI,
KALIYIL PURAYIDAM, EDAVA P.O.,
THIRUVANANTHAPURAM.

2. ALI AKBAR,
KALIYIL PURAYIDAM, EDAVA P.O.,
THIRUVANANTHAPURAM.

BY ADVS. SRI.R.ANILKUMAR
& SRI.P.BANI

RESPONDENTS/RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
SECRETARY, HOME DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. MOHAMMED ALI, S/O. MOHAMMED KUNJU,
SEEJET, PALATHODI VEEDU, EDAVA P.O., (VIA)
VARKALA,
THIRUVANANTHAPURAM.

3. SUB INSPECTOR OF POLICE,
VARKALA, THIRUVANANTHAPURAM.

R1 & R3 BY SENIOR GOVERNMENT PLEADER SRI.M.R.SABU

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J.
&
K.T.SANKARAN, J.

W.A.No.1170 of 2007

Dated this the 25th day of May, 2007.

JUDGMENT

K.T.SANKARAN, J.

The petitioners, who are the accused persons in C.C.No.803/2003 on the file of the Judicial Magistrate of the First Class, Varkala, seek to quash Ext.P4 charge against them under Sections 447, 427 and 294(b) read with Section 34 I.P.C. The learned single Judge, after considering all the contentions put forward by the petitioners, held that no grounds are made out for invoking the powers under Article 227 of the Constitution of India or Section 482 of the Code of Criminal Procedure and dismissed the writ petition.

2. The contention of the learned counsel for the petitioners is that a civil suit is pending between the parties and therefore, the charge is liable to be quashed. The learned single Judge held that there is no case for the petitioners that any interim order was granted in the suit in favour of the petitioners.

In fact, the application for interim injunction was dismissed and the same was upheld by the appellate court in C.M.A.

The question whether there is ample evidence for finding the petitioners guilty of the offence or whether there is any possible defence are all matters beyond the purview of a writ petition or a petition under Section 482 Cr.P.C. We concur with the findings and reasonings in the judgment under Appeal. We do not find any reason for interference with the well considered judgment of the learned single Judge. Writ appeal fails and it is dismissed.

Sd/-
(H.L.DATTU)
CHIEF JUSTICE

Sd/-
(K.T.SANKARAN)
JUDGE

sk/

//true copy//

P.S. To Judge

H.L.DATTU, C.J.
&
K.T.SANKARAN, J.

W.A.No.1170 of 2007

JUDGMENT

25th May, 2007